

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

MARITZA OSTOLAZA BURGOS

Plaintiff

v.

CIVIL 08-1376CCC

COMMISSIONER OF SOCIAL SECURITY
Defendant

ORDER

This is an action filed pursuant to §205(g) of the Social Security Act, as amended, 42 U.S.C. §405(g) to review a "final decision of the Commissioner of Social Security. This section provides, inter alia, that "[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner, with or with remanding the cause for a rehearing" and that "[t]he findings of the Commissioner as to any fact, if supported by substantial evidence, shall be conclusive. The Commissioner found that the plaintiff was not disabled under the terms of the Act, the reason for which plaintiff has filed this case.

Ostolaza filed her application for disability benefits on May 12, 2004 alleging an inability to work since July 31, 2002. She met the requirements for insured status through March 31, 2005. Plaintiff alleges disability on the basis of mental impairments– depression, anxiety, irritability, bad moods, forgetfulness and insomnia. Progress notes from plaintiff's treating psychiatrist for the period from January 6, 2004¹ through January 23, 2007 reflect that she was seen on a monthly basis, for almost a year while still insured, for depression, severe anxiety was prescribed an anti-psychotic medication, Haldol, as well as Tranxene for

¹The first number in the date of the first treatment note is obliterated. A note on the bottom of the page states that the date is 1/6/04. The Administrative Law Judge uses 6/04 as June, 2004, while in all other entries the second number is the day, not the month.

anxiety and Paxil for depression.

The progress notes reflect recurrent anxiety, crying spells, suicidal thoughts, and auditory hallucinations; which she continued to experience. She reported hearing conversations and someone calling her, specifically a distant voice that she reports saying: "Hey, listen!" She avers that this is a constant pattern that she hears these noises and voices calling her and that she looks and sees no one.

The record reflects that there is sufficient evidence of a serious mental condition prior to the expiration of her insured period. There would be no purpose in remanding the case for further evaluation by a consulting psychiatrist, inasmuch as her coverage expired several years ago. Accordingly, the decision of the Commissioner is VACATED, and the case is remanded for another hearing, at which her treating psychiatrist **Dr. Juan Soto Silva, Calle Georgetti #3, Vega Alta, Puerto Rico, 00692**, during the insured period will testify. A vocational expert shall also testify so that there is no further delay in the resolution of this claim.

SO ORDERED.

At San Juan, Puerto Rico, on March 31, 2009.

S/CARMEN CONSUELO CEREZO
United States District Judge